

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DAVID PACKIANATHAN,)
)
)
Plaintiff,)
)
)
) Civil Action
) No. DKC 2007-1104
)
MOHAN JACOB, et al.)
)
)
Defendants.)
)

MOTION TO DISMISS AS TO ALL DEFENDANTS
PURSUANT TO FED. R. CIV. P. RULE 12(b)(1)

Defendants Mohan Jacob ("Jacob") and Integrated Facility Systems, Inc., ("IFS"), move the Court for an Order dismissing the instant action for lack of subject matter jurisdiction. Plaintiff pursues this action on his assertion that diversity jurisdiction exists pursuant to 28 U.S.C. § 1332. However, Plaintiff bases his claim on asserted violations of Md. Code Ann., Labor & Employ. Art., Title 3, and attempts to satisfy the \$75,000 "amount in controversy" requirement by asserting the right to receive three times the amount of the unpaid wages claimed under Md. Code Ann., Labor & Employ. Art., § 3-507.1(b). However, during much of the time for which Plaintiff claims he was not paid wages, he was actually employed by Integrated Facility Systems, Inc. who was at that time

located in Virginia. Therefore, the Maryland Code does not apply to Plaintiff's employment claim during periods when Plaintiff worked in Virginia, and the asserted right to recover three times the amount of the unpaid wages for this period under Maryland law cannot apply to Plaintiff's claim.

Also, Plaintiff's claims based on alleged non-payment of wages, unjust enrichment under Count II, and asserted non payment of reimbursements under Count III which occurred prior to May 1, 2004 are time barred under Maryland's statute of limitations.

For the reasons stated, and as further supported by Defendants' Memorandum in Support of Motion to Dismiss, Plaintiff cannot establish an amount in controversy exceeding \$75,000, and this court lacks jurisdiction to decide the case.

WHEREFORE, the Defendants Mohan Jacob and IFS move the court to dismiss the case for lack of diversity jurisdiction.

Dated: July 17, 2007 Respectfully submitted,

/s/ Daniel M. Press
Daniel M. Press, #07300
CHUNG & PRESS, P.C.
6723 Whittier Avenue,
Suite 302
McLean, VA 22101

(703) 734-3800
(703) 734-0590 [facsimile]

Of counsel:
KENNETH A. MARTIN, Esq.
MARTIN & ASSOCIATES PLLC
6723 Whittier Ave., Suite 200
McLean, VA 22101
703-918-0350

Counsel for the Defendants